lage officers and the question of modifying it so as to make it applicable to villages in which the kulkarni watan has been commuted will be considered along with the other legislation which may be necessary in connection with the commutation of kulkarni watans. (G. R. R. D. No. 8783, dated 12th September 1916.)

CHAPTER VIII.

Of Surveys, Assessments and Settlements of Land Revenue [a]

Revenue survey may be introduced by Governor in Council into any part of Presidency

95. It shall be lawful for the Governor in Council, whenever it may seem expedient, to direct the survey of any land in any part of the Presidency, with a view to the settlement of the land revenue, and to the record and preservation of rights connected therewith, or for any other similar purpose and such survey shall be called a revenue survey. Such survey may extend to the lands of any village, town, or city generally, or to such land only as the Governor in Council may direct ; and subject to the orders of the Governor in Council it shall be lawful for the officers conducting any such survey to except from the survey settlement any land to which it may not seem expedient that such settlement should be applied.

Control of revenue survey.

The control of every such revenue survey shall vest in and be exercised by the Governor in Council.

[a] This title was substituted for the original title by Bom. IV of 1913, s. 42.

SUMMARY (S. 95.)

Survey.

(1) general principles in Survey and Settlement Manual ... ... N 1

(2)—Of.

(*a*) Kadim Inam lands	...	G 5
(*b*) Lands used for agriculture alone		G 3
(*c*) Salt lands	... ...	G 2
(*d*) Talukdari estates	... ...	N 2
(*e*) Vacant lands in village sites...		G 1
Survey officers—Supervising Tapedars in Sind	... ...	G 4

N. 1. The general principles and rules which form the basis of Revenue Survey operations are described in the Survey and Settlement Manual.

N. 2. The Governor-in-Council has the power to order Survey of Talukdari estates (Section 4 of Act VI of 1889.)

G. 1. With a view to the settlement of the land-revenue it is competent to Government, if they think fit, to direct under this section the survey of vacant lands in village-sites. When such an order is given, the officer in charge of the Survey will fix the assessment under Section 100. In respect of lands not within the local operation of an order under this section, the assessment has to be fixed under Section 52 by the Collector. (G. R. No. 4344, dated 18th June 1886.)

G. 2. It is evident from this section that salt land may also be the subject of a revenue survey as under this section a survey may extend to any land as the Governor in Council may direct. Section 48 renders land revenue leviable upon land from which any other profit or advantage than that ordinarily acquired by agriculture is derived. (G. R. No. 6139, dated 21st August 1889.)

G. 3. Non-agricultural buildings should be excluded from agricultural assessment and the form of declaration (Appendix 14) should be expressly limited to lands used for agriculture alone. (G. Rs. No. 4267, dated 29th May 1896 and 4582 dated 16th June 1904.)

G. 4. All Supervising Tapedars in Sind are appointed Survey Officers for the purposes of Chapters VIII and IX within the limits of their respective charges (Government Notification No. 6415, dated 25th June 1908, printed at p. 944 of B. G. G. Pt. I of 1908.)

G. 5 Question of the application of a survey settlement to kadim inam lands.

Government agree with the Commissioners that it is not necessary to take separate action for the survey of kadim inam lands. Action can be taken under the provisions of the Record of Rights so far as the mere survey of these lands for the protection of rights is concerned. The question of the settlement of the lands should await the decision of Government on the question of compulsory introduction of survey settlement into inam villages. G. O. No. 6392, R. D. dated 10th June 1918.

96. It shall be lawful for the survey officer deputed to conduct or take part in any such survey, to require by general notice or by summons, the attendance of holders of lands and of all persons interested therein, in person, or by legally constituted agent duly instructed and able to answer all material questions, and the presence of táluka and village officers, who in their several stations and capacities are legally, or by usage, bound to perform service in virtue of their respective offices and to require from them such assistance in the operations of the survey and such service in connection therewith, as may not be inconsistent with the position of the individual so called on

Survey Officer may require by general notice or by summons, suitable service from holders of land, etc.

97. It shall be lawful for the survey officer to call upon all holders of land and other persons interested therein to assist in the

Assistance to be given by holders and others in the

measurement or classification of lands.

measurement or classification of the lands to which the survey extends by furnishing flag-holders; and in the event of a necessity for employing hired labour for this or other similar object, incidantal to survey operations, it shall be lawful to assess the cost thereof, with all contingent expenses on the lands surveyed, for collection as a revenue demand.

N. 1. *Vide* Section 135 G.

G. 1. The cost of dividing the large waste survey numbers with a view to give them out for cultivation is to be borne by Government. (G. R. No. 1135, dated 3rd February 1909.)

G. 2. It should be noted that under Section 97, only the expenses incurred in hiring labourers to act as flag-holders or for other similar purposes can be recovered and not expenses of supervision and of clerical labour. These latter can be recovered only under Section 135 (G) in connection with the preparation of plans and maps of sub-divisions of Survey numbers. (G. R. No. 3639, dated 21st April 1910.)

Survey numbers not to be of less than a certain extent.

98. Except as hereinafter provided, no survey number comprising land used for purposes of agriculture only shall be made of less extent than a minimum to be fixed from time to time for the several classes of land in each district by the Commissioner of Survey, with the sanction of Government. A record of the minima so fixed shall be kept in the Mámlatdár's office in each táluka, and shall be open to the inspection of the public at reasonable times.

Exception.

These provisions shall not apply to survey numbers which have already been made of less extent than the minima so fixed, or which may be so made under the authority of the Commissioner of Survey given either generally or in

any particular instance in this behalf; and any survey number separately recognized in the [a] land records [a] shall be deemed to have been authorizedly made, whatever be its extent.

99. *Repealed by Bom. IV of 1913, s. 44.*

[a-a] These words were substituted for the original words 'Survey records' by Bom. IV of 1913, s. 43.

G. I. A scale of minima for the regulation of sub-divioions of Survey numbers as fixed from time to time is given below:—

These limits are not observed in the Phalni operations now carried on for the purposes of the Record of Rights. (*vide* G. R. No. 9578 dated 21st September 1908, printed under Section 113.)

Scale of minima.

Name of District.	Description of cultivation or class of land.	Minimum area. A.	G.	Authority.
Gujarat (all districts).	Dry crop.	1	0	G. R. No. 2161, dated 29th May, 1869.
	Garden...	0	20	
	Rice ...	0	20	
Deccan (all districts).	Dry crop.	1	0	G. R. No. 6577, dated 16th August, 1905.
	Rice ...	0	10	
	Garden...	0	10	
Thana	Rice ...	0	10	Government Notification dated 6th October, 1869 (B. G. G. Part I, page 1129.).
	Garden...	0	10	
	Jirayat...	3	0	
Ratnagiri	Rice ...	0	5	
	Garden...	0	5	
	Varkas...	2	0	
Belgaum, Dharwar Bijapur.	Dry crop.	6	0	
	Rice ...	1	0	
	Garden...	0	20	
North Kanara settled Talukas of the below Ghat Districts, viz:—1 Karwar. 2 Ankola. 3 Kumtha. 4 Honavai.	Dry crop.	5	0	G. R. No. 5594, dated 11 November, 1872.
	Rice ...	0	5	
	Garden...	0	5	
	Kumri ...	5	0	
Above Ghat Districts 1 Haliyal. 2 Yellapur. 3 Sirsi. 4 Siddapur.	Dry crop.	3	0	G. R. No. 8071, dated 13th October 1896.
	Rice ...	1	0	
	Garden...	0	20	

The above table does not give the minima for the District of Kolaba, as that district was formed after

1869. The scale of minima in force in the several Talukas of the District is therefore to be understood to be the same which is prescribed in the above table for the Districts to which they originally belonged.

G. 2. **Pardi Numbers.**—The provisions of this section are not intended to apply to Pardi Numbers. (G. R. No. 4314, dated 25th July 1881.)

G. 3. The Director of Land Records should be Commissioner of Survey for the purposes of Section 98. (G. R. No. 5370, dated 31st July 1901.)

G. 4. Sub-division of surevy numbers. Proposed measures for the prevention of sub-division of agricultural land in irrigated tracts.

Letter from the Commissioner, C. D. No. V.-1264 dated 5th September 1916.

"The minute sub-division of Agricultural holdings in certain parts of the Presidency has, as Government are aware, attracted attention from time to time. You will remember a discussion which occurred in the Legislative Council last year on the initiative of Divan Bahadur Godbole. Government felt it impossible to take any action, but there can be no doubt I think that the existence of a serious evil was recognized. The most minute sub-division is to be found in the Konkan talukas, and it is the despair of all officers of the Land Record Department as I have good reason to know. But I desire to invite the attention of Government not to the Konkan but to those areas in the Dekkhan which are under command of our new perennial canals. By the skill of the Irrigation Department and the expenditure of crores of rupees inferior dry crop lands periodically subject to ruinous famines are being converted into valuable productive proporties. But this change is being accompanied by the curse of excessive sub-division, and unless something is done to put a stop to this most unfortunate development, we shall not get the full benefit of

our irrigation schemes. I have the honour to call the attention of Government to the present position, and to suggest with due respect the desirability of legislation empowering us to re-distribute holdings in suitable blocks and to prevent extensive sub-division. I have suggested long ago that a bill on the lines of the Town Planning Act might be possible. And Mr. Keatinge has several times put forward views-with which I entirely agree—urging the necessity of assigning long-term rights of water to suitable and suitably situated properties.

2. The nature and extent of the present evil can best be understood from a map of.

(1) part of Manjri village,

(2) three maps showing surevy numbers in Mundhwa village, and copies of certain *pot hissa* (sub-division) maps from Hadapsar village.

"From these maps you will see what has come about on an old canal and what we may except in the course of time on all our canals, and what I wish to prevent. It is not merely that many of the holdings are so small that they cannot be properly cultivated. They are usually very unsuitably shaped, tending to run in long narrow strips. If water is to be supplied economically, so that as many people as possible may get it and so that its wealth-producing powers may be utilized to the greatest advantage, it cannot be sent down a long canal merely in order that a particular minute patch at the end of that channel may be watered. It is being recognized more and more clearly that the only effective way of preventing waste is to surround the sugarcane fields with substantial mounds, and all the newer rules provide for acre plots and surrounding mounds. But this is impossible if we are to recognise small sub-division of irregular shape. Again unless we have plots of a fixed size, it is necessary to

measure what has been actually irrigated or else to demarcate the sub-divisions and then to inspect them and see that no sub-division has water without paying for it. There are very serious objections to measurement; and demarcation and inspection are almost as bad. Nor is it merely a case of water wasting, inconvenience in administration, and minor abuses. Minute and irregular sub-division offers very serious obstacles to real agricultural development, connotes, the increase of uneconomic holdings, and destroys all hope of the introduction of manufacturing or planting interests.

"3. It is probably as true in the cases of agricultural lands as it is in the case of building sites that a re-adjustment of holdings could be so made as to benefit nearly every holder. Anybody owing three or four irregularly shaped plots in various localities would be glad to exchange them for one nicely shaped piece of the same area, or even to take little less. But although almost everyone would agree that such re-adjustment would be of general benefit, it is quite impossible to arrange it without the machinery of a special act. It has been suggested, I believe, that we might proceed by agreement among the parties concerned. I deprecate any such idea. Every individual would try to get the better of his neighbour, and obstinate people would hold out to the end and wreck the whole scheme after an infinity of trouble had been taken. Moreover, it would be quite impossible to arrange for a read-justment of charges on the various properties without the clear authority of legal provisions. One has only to consider the complications which might ensue and to agree that ordinary processes of negotiations and agreement are out of the question. In a word the position is hopeless without an Act to provide machinery or compulsory action—such an Act indeed as the Town Planning

Act with its provisions for schemes, the reconstitution of plots, transfer of rights, contribution, compensation, and a tribunal of arbitration. I venture to think that there is a good case for an Agricultural Estates Planning Act.

"4. Agricultural holdings differ from building cites in that they are so much more liable to subdivision. A Town Planning Act does not object to future sub-division, because on the whole such sub-division is not very probable to any great extent, neither would it be very serious evil. But in the case of our agricultural holdings it would be of little use to consolidate them now if hereafter they are again subjected to the vicious degree of sub-division which has in the past done so much harm. Accordingly any scheme to be of permanent use must be able to prevent or control future subdivision. It is possible that a sufficient check may be furnished by the power of Government to refuse water to plots too small in size or inconveniently shaped or situated, or by agreements whereby long-term rights of water were granted. It may be necessary to amend section 21 of the Irrigation Act, for it is difficult to see why anybody should claim as a matter of right a constant supply of water he has done nothing to bring. The idea in the Act no doubt is that the grant of this right is a return for the land given up by the cultivator for a water course. It might be better to acquire the land needed for water courses.

"5. These and similar points require further consideration. My suggestion is that, if Government are convinced that there is a serious evil which ought to be stopped or prevented and that a reconstitution of agricultural holdings is desirable by operations somewhat on the lines of the Town Planning Act it is advisable that a committee should be appointed to consider definite recommendations for submission to Government. Such a

committee might include Mr. Inglis and perhaps another irrigation expert, an experienced Collector, the Director of Agriculture, a non-official and possibly myself."

Order :—The letter from the Commissioner, C. D., deals with two questions ; first, the evil of excessive sub-division of Agricultural land generally, and, secondly, the sub-division of Agricultural land in irrigated tracts in particular. The first question is under the consideration of Government in a separate correspondence. As regards the second question the Commissioner, C. D., the Settlement Commissioner and the Director of Land Records and the Director of Agriculture should be requested to discuss it in conference and to submit to Government their joint report on the subject, after consideration of the remarks made in the following paragraphs, which are intended to serve merely as a basis of discussion, and are subject to subsequent modifications.

2. The first point is to consider in what circumstances the redistribution scheme is to be initiated. The land suitable for the purpose has to be selected by Government. It is doubtfut whether, as under the Town Planning Act, it can be left to the people themselves to say whether they will have the scheme or not. The object being the proper utilisation of a water supply provided by Government, it seems that Government should have the determining voice, though it may be proper to call for objections from the persons interested.

3. The land both before and after redistribution should be valued on the dry crop basis. As a part of the area will be deducted for communications, etc., the area for redistribution will be less than the total of the original holdings. It should be distributed as far as possible in proportion of the value of the original hold-

ings. The site of each individual's new holding should be as far as possible on the site of his old holding. Those whose new holdings are below the Proportion which they would receive on the basis of their old holdings will have to be compensated at the cost of those whose new buildings are in excess of their proper share. Those who have to be dispossessed altogether will have to be paid in cash, and it will probably be desirable to allow them the usual 15 per cent. on account of forcible dispossession. The compensation will be paid by Government and collected from the holders on whom the liability may fall.

4. It will possibly be necessary to fix a minimum size of a holding. This should be fixed as small as passible consistently with proper economy of water. It may not be possible to prevent ownership in a holding passing, and the number of owners multiplying, in accordance with the law of inheritance. What should be the object to be secured is a minimum unit of cultivation and irrigation.

5. As the redistribution of the land will be a permanent arrangement, there must be some guarantee on the other hand that as long as a sufficient water supply can be maintained in the reservoir with due care and attention on the part of Government, a supply of water for perennial irrigation will be given to the redistributed holdings. For the supply guaranteed, the water rate will be charged, whether water is taken or not. The rate may be levied on a scale, either fixed or rising, for a period which may extend to 20 or 24 years; but it should be subject to revision if during that period the ordinary rates are revised or if other redistribution schemes come into force in the neighbourhood. It is desirable that Government should keep a free hand in the matter, and

that there should not be different rates for the same facilities on one canal.

6. The conditions as to levelling Bandhs, etc., should be provided by rules.

7. Power may have to be taken to transfer mortgages from old holdings to new and also to pay them off if possible. It may also be necessary to make provision in the redistribution scheme for land to be taken for improved methods of sugar cultivation and manufacture.

R. 4094, dated 2nd April 1917.

Officer in charge of a survey to fix assessments.

100. Subject to rules [a] made in this behalf, under section 214, the officer in charge of a survey shall have authority to fix the assessment for land revenue at his discretion on all lands within the local operation of an order made under section 95 not wholly exempt from land revenue, and the amounts due according to such assessment shall, subject to the provisions of section 102, be levied on all such lands.

Regard to be had to Proviso to section 52.

In fixing such assessment, regard shall be had to the requirements of the proviso to section 52.

Proviso.

But nothing in this section shall be deemed to prevent the survey officer aforesaid from determining and registering the proper full assessment on lands wholly exempt from payment of land revenue or on lands especially excepted under section 95 from the survey settlement, or from dividing all such lands to which the survey extends into servey numbers.

[a] Words repealed by Bom. IV of 1913, s. 45, are omitted.

N. I. Vide G. R. No. 4437, dated 10th June 1904, under Section 102.

G. 1. The following scales for eliminating fractions when fixing survey assessments, sanctioned by G. R. No. 2210, dated 18th April 1873, have been and are still in force:—

SCALE No. I.

For all Collectorates except Thana, Kolaba, Ratnagiri and Kanara.

From Rupees.	To Rupees.	Fixed as assessment.
0 0 1	0 3 0	0 2 0
0 3 1	0 6 0	0 4 0
0 6 1	0 10 0	0 8 0
0 10 1	0 14 0	0 12 0
0 14 1	1 4 0	1 0 0
1 4 1	1 12 0	1 8 0
1 12 1	2 4 0	2 0 0
2 4 1	2 12 0	2 8 0
2 12 1	3 4 0	3 0 0
3 4 1	3 12 0	3 8 0
3 12 1	4 8 0	4 0 0
4 8 1	5 8 0	5 0 0

and so on.

SCALE No. II.

For use in Thana, Kolaba, Ratnagiri and Kanara.

0 0 1	0 0 6	0 0 6
0 0 7	0 1 6	0 1 0
0 1 7	0 3 0	0 2 0

For higher figures the same scale as in the other Collectorates.

G. 2. Lands formerly included in military cantonments and now in civil limits should be assessed to land revenue (G. R. No. 5628, dated 19th August 1882).

G. 3. (2) The proposal to settle whole Talukas as far as possible at one time instead of proceeding with the settlement of a group of villages, as soon as the measurement and classification of them are completed, will be more satisfactory to the people who are likely to be confused by successive settlement operations in the same taluka and will also tend to administrative convenience, and is approved. (G. R. No. 2674, dated 3rd April 1883.)

G. 4. **Judi on service lands.**—In settling the amount of judi to be paid on each share the following rule should be observed :—

(i) Up to one rupee.

Take the nearest half anna, *i. e.*, neglect 3 pies and under and count 4 and 5 pies as 6 pies except in the Konkan and below-ghat talukas of the Kanara District where the nearest 3 pies should be accepted, other fractions of an anna being inadmissible.

(ii) Above one rupee.

Take the nearest anna, *i.e.*, neglect 6 pies and under and from 7 to 11 pies as one anna.

Provided that—

(1) When the application of the scale results in the sum total of the new amounts being greater or less than the old amount of judi upon any inam estate, the difference should be distributed equitably over the new amounts of judi by a deduction or addition in the larger shares so as to make the total equal to the old amount of judi.

(2) Subject to Proviso (1), no new judi shall be less than 6 pies ; or in Konkon less than 3 pies.

Proviso (2) may be ignored if Dharsod should result in an increase of the total judi on the whole original holding. G. R. R. D. 15227, dated 17th December 1917.

The assessment so made may be on land or on means of irrigation, etc.

101. The power to assess under the preceding section shall, in the case of lands used for purposes of agriculture alone, include power to assess, whether directly on the land, or in the form of a rate or cess upon the means of irrigation in respect of which no rate is levied [a] under section 55 [b] under the Bombay Irrigation Act, 1879 [b], or in any other manner

Bom. VII of 1879.

whatsoever that may be sanctioned by Government.

[a] "Levied" was substituted for "leviable" by Bom. VII of 1879, s. 2.

[b-b] These words were inserted by Bom. VII of 1879, s. 2.

SUMMARY (S. 101.)

Assessment on

(1) Wells ... ... G 1
(2) Bandharas ... ... G 2, 3, 5
(3) Patasthal ... ... G 6, 7, 8, 9, 10

Rivers and streams.

(1) When free use of water by Railways ... ... G 4
(2) When rate payable by G. I. P. Railway ... ... G 11

G. I. The following orders respect to the revision of the assessment on lands irrigated from wells are still in force :—

1. That in the case of old wells constructed before the first settlement, all special water assessment should be abandoned, and the maximum jirait rate alone levied.

2. That in the case of new wells constructed subsequent to the first settlement, the ordinary dry crop rate should be imposed without any addition whatever on account of the new wells.

3 The first rule was intended in the first instance to be applicable to the drier Talukas of the Deccan Collectorates, where the rain-fall is, as a rule, light and uncertain. It is now generally adopted in the Deccan and Southern Maratha country.

4 Boorkees of permanent construction are to be treated as wells. There is no objection to classing at a higher rate land within a certain distance from a stream from which water can be obtained by means of a Boorkee. The same principle may be adopted in the case of land which derives benefit

from its proximity to a tank. This should form part of the Regular process of classification, in order that it may be tested by the Classing Assistants in the same manner as other classification returns. (G. R. No. 1028, dated 25th February 1874.)

(5) Government have given a general assurance that the above two rules will be adhered to in fixing assessment on all lands irrigated from wells in the Deccan and Southern Maratha Country Districts. (G. R. No. 6682, dated 10th November 1881.)

G. 2. If bandharas are erected without permission, they will be either removed, or the lands watered from them assessed as Bagayat. Mamletdars and their subordinates and village officers are to report if they find bandharas so erected without permission. (G. R. No. 3172, dated 23rd June 1874.)

G. 3. The following are the rules regarding fixing water assessment on lands irrigated from Bandharas (dams) built across streams or nullas :—

I. Lands under bandharas existing at the original settlement, have been assessed at garden rates, and will, at the revision, pay whatever revised rates may be determined upon.

II. Lands classed as dry crop at the original settlement, but which have been converted into garden by the use made of water from public streams beyond the limits af the occupancy of the cultivator during its currency, will be assessed at the revision at garden rates modified according to the quantity of water obtainable, the number of months for which it can be depended upon, the description of cultivation which it will render practicable, the cost of providing the means for obtaining water or forming the water courses (paths) necessary for its utilization.

III. When lands are classed at the revision settlements as dry-crop, and it is desired to convert them into garden during the currency of those settlements by the construction of temporary or per-

manent bandharas on, or by drawing water directly from streams not within the boundary of a cultivator's occupancy, the previous permission of the Collector must be obtained, and any person erecting a bandhara or drawing water without such permission will be liable to the penalties prescribed by law. On giving permission the Collector may couple it with such conditions as to payment of garden rates, the removal of obstructions to the stream arising from the means employed to obtain water, &c., as may be desirable. In those collectorates in which it may have been the custom to levy extra rates at once without waiting for the expiration of existing settlements, the practice will continue, but where such has not been the practice, it will be left to the Collector, under the orders of the Commissioner, to make such conditions, as keeping channels clear and other matters relating to the use of the water, as he may consider fair and reasonable.

The Collector will, in granting such permission, pay due regard to the interests of those who may have already erected bandharas on the same stream, and will further take care to obtain from the applicant a written acknowledgment of the rights of Government to make other use of the water at any future time, if they should think fit to do so—to remove the bandhara without compensation whenever it may be desirable—and to compel the applicant to clear the stream of any obstruction caused by his neglect to keep the bandhara in proper order. (G. R. No. 3618, dated 14th July 1874.)

G. 4. **Free use of water by Railways.**—Provided no pumping stations are erected or bunds thrown across rivers and streams by Railway Companies without the previous sanction of Government, no objection need be raised to the free use of water. (G. R. No. 8842, dated 1st December 1893.)

G. 5. In tracts where water supply is fitful and inconstant, and where, therefore, according to the orders in Government Resolution No. 3969, dated 25th May 1904, patasthal irrigation will be regulated by section 55 of the Land Revenue Code, the maximum of encouragement and the minimum of penalty and trouble should be imposed on intending irrigators. In modification, therefore, so far as necessary, of the rules promulgated with Government Resolution No. 3618, dated 14th July 1874, requiring the Collector's permission to be obtained before bandharas are made, the people of such tracts should be informed that they are at liberty to take water without notice or application, but that on the extent of irrigation being ascertained they will be liable to pay the rate fixed by the Collector under section 55 of the Code. The village records show the sources of irrigation and the lands for which those sources are likely to be utilised. Village officers, Circle Inspectors, Mamlatdars and their superior officers will be expected to inspect lands for the purpose of ascertaining what areas have been irrigated and that the irrigation has been duly charged for (G. R. No. 6663, dated 11th July 1906.)

G. 6. **Assessment of patasthal lands.**—In the opinion of Government, it will be far preferable to adopt a broad and liberal policy, and to abolish patasthal assessment altogether in the precarious areas. The amount of revenue thus sacrificed will not be large and the result will be a much needed stimulus to private enterprise in the husbanding of the supply of minor rivers, streams and nalas, and the irrigation of the small areas commanded by them. There is a danger that a cultivator who takes water from a pât may be called on to pay assessment even though pât may fail at a criti-

cal time, while the man who makes no use of the water may obtain a remission or suspension of assessment. Such a danger must discourage the full utilisation of the water. If, on the other hand, the water is absolutely free, every drop of it will be utilised, the general value of the crop will be improved, and, possibly, in times of scarcity, employment will be provided, both for making the small works required, and for cultivating the irrigated crop. The Government of India, on the recommendation of the Irrigation Commission, have accepted the principle of liberality to the cultivators of irrigated land and the encouragement of irrigation by every possible means, in the arid portions of the Deccan. For the purpose of constructing wells, they are willing even that free grants of money should be made, although no additional revenue will be derived in consequence. It will be in full accordance with the policy to refrain from assessing for water, lands of precarious tracts which may be irrigated from the small channels and dams constructed by the enterprise of the cultivator.

2. In tàlukas specified below, which are all undoubtedly precarious tracts, pàtasthal assessment shall be abolished.

District.	Taluka.
Sholapur.	All Talukas.
Ahmednagar.	Shevgaon. Jamkhed. Karjat, Nevasa. Ràhuri. Sangamner, Kopargaon.
Poona.	Indapur. Bhimthadi.

As regards other talukas, Collector should make recommendations. In most cases it will

be found that there are distinguishable from one another pats, and bandharas [whether temporary (kacha) or permanent (pucka)], the supplies of which are fairly certain or decidedly precarious. In most instances, the maximum rate on the pat will be a tolerable *prima facie* guide. The dividing line may probably be put at Rs. 5. But this will not, in all cases, be a trustworthy guide. The selection therefore, of pàts for exemption must be made after inspection by the Sub-divisional or Settlement Officer, as the case may be. Where the rate exceeds Rs. 5, he will have to make a good case for exemption; and where it is below that figure, for retention of the pátasthal assessment. Where the táluka is under settlement, the recommendations should be made in the settlement report, and recommendations made in reports already submitted will be disposed of in the orders issuing on them. In other cases, the Collector will make a separate report to Government containing his recommendations, and showing their financial effect. To the report a statement should be appended showing for every pàt, whether exempted or not, (1) the village, (2) character of bandhára, kacha or pucka, (3) maximum rate, (4) total pàtasthal assessment, (5) whether exempted or retained, (6) total of (4) for all patasthal villages, and (7) remaining pátasthal assessment after deduction of total exemptions from (6).

3. For those pàts on which the pátasthal assessment is retaind, it will be necessary to provide a system of remissions in case of failure of water-supply. It is fairly established that the supply of these small irrigation channels varies roughly with the taluka rainfall. In the case, however, of streams which communicate directly with the Western Ghats, this may not always be the case. But taking the shortage of rainfall below the average as a starting guide, the Collector, if he has

reliable information that the pàts have failed, should, by the 15th December in each year, announce a remission, roughly adjusted to his estimate of failure, of 4 annas, 8 annas, or 12 annas in the rupee of the recorded assessment in all the páts of the tàlukas, with any notorious or well-established exceptions. Beyond this, no inquiry should ordinarily be made regarding individual villages or páts.

4. The Collector will make the decision on his own authority, but will report for the information of the Commissioner, who should submit a general report for his Division to Government. The Collector in testing his information, and the Commissioner in examining the Collector's reports, will be careful to secure equality of treatment by comparison of similar tracts. Thus, much the same measure of liberality would probably be required in Pimpalner of West Khandesh, as in Kalvan and Báglan of Násik and *vice versa.*

5. It should be understood that by the abolition of pátasthal assessment it is not intended to injure any rights which the holders of lands subject to that assessment now have to the water of the streams. Those rights should continue to be entered in the revenue record. The construction of additional bandharas or similar works on any streams should be subject to veto by the Collector, which should be exercised with due regard to the exercise of existing rights, and the capacity of the stream. The Collector will not usually object unless applied to by a person whose right has been so recorded, and the Collector's prior permission will no longer be required for new irrigation within the tracts to which these orders may be extended. (G. R. No. 2759, dated 15th March 1907).

G. 7. There is no intention on the part of Government to interfere with the assessment and management of land under regular patasthal irriga-

tion. The case in which (see G. R. No. 6663, dated 11th July 1906, printed as foot-note to Section 101) Government desire that water rate shall be levied only when water is obtained, and have directed that the cultivators may take the water under liability to subsequent assessment, is the case of pàtasthal lands watered by a highly irregular supply, and this description cannot be applied to the large irrigated tracts of Western Khandesh. (G. R. No. 3833, dated 15th April, 1907.)

G. 8. The concessions allowed under Government Resolution No. 2759, dated 15th March 1907, should be extended at once to the whole of the Bijapur District, the Parasgad Taluka of the Belgaum District and the Ron, Navalgund and Gadag Talukas of the Dharwar District. The Commissioners are also authorised to specify talukas or well defined tracts in them in which the detailed examination prescribed in paragraph 2 of the Resolution quoted above can safely be dispensed with. (G. R. No. 7087, dated 18th July 1907).

G. 9. The orders in Government Resolulion No. 2759, dated 15th March 1907, are not intended to apply to tanks or bandharas in charge of the Public Works Department, which are or have been repaired at the cost of Government.

Nothing in the orders contained in Government Resolution No. 2759 dated 15th March 1907, shall be held to prevent the taking over by the Public Works Department, of bandharas and pats where the supply of water can be materially improved by the expenditure of Government money, and the imposition of a charge under section 55, Land Revenue Code, sufficient to give a fair return on the money expended. (G. R. No. 3422, dated 1st April 1908.)

G. 10. Nandgaon taluka should be exempted from detailed examination and patasthal rates

should be abolished in that taluka. (G. R. No. 6551, dated 24th June 1908).

G. 11. The G. I. P. Ry. Company is charged a rate of one rupee per 10000 cubic feet of water taken by the Darna river by constructing a well on the bank of that river. The rate is fixed for 10 years. (G. R. A. I. 235, dated 29th January 1909).

102. The assessment fixed by the officer in charge of a survey shall not be levied without the sanction of Government. It shall be lawful for the Governor in Council to declare such assessments, with any modifications which he may deem necessary, fixed for a term of years not exceeding thirty in the case of lands used for the purposes of agriculture alone, and not exceeding ninety-nine in the case of all other lands.

Assessments so made not leviable without the sanction of Government. But may be fixed, with or without modification, by the Governor in Council for a term of years.

SUMMARY (S. 102.)

1 Section 102—meaning of the word 'fixed' ... ... G 7

2 Land-revenue—proposal to fix by legislation general principles of assessment &c. negatived ... ... G 10

3 Rice rates ... ... G 8

4 Settlement reports.—

(1) Notification with reasons for alteration. ... ...:

(*a*) In non-Talukdari villages G 11

(*b*) In Talukdari estates ..... G 14

(2) Petitions of objections ... G 9

5 Survey-settlement.—

(1) Announcement ... ... G 5

(2) Inam villages ... ... G 1

(3) Notice for original and revised. G 13

(4) Notification of guaranteed period G 2
(5) Temporary for a year or two not recognised ... ...G 2, 3, 4
(6) To exclude building sites ... G 6
6 Water rate in Sind ... ... G 12

G. 1. **Sanction for Inam villages.**—The extension to Inam villages coming under Settlement after the general settlement of the Taluka, of the rates generally sanctioned and applied, is authorized by G. R. No. 5921, dated 16th November 1878. This general sanction shall be deemed to be the sanction required by Sections 102 and 103. (G. R 6386, dated 6th December 1880).

G. 2. **Notification of survey settlement guarantee.**—When the assessments fixed by the Survey Department have been sanctioned by Government finally, a notification determining the period for which they are guaranteed is required to be published in the *Government Gazette*, in the form prescribed in Appx. 14. When the assessments have been sanctioned provisionally for one year only, no such notification is necessary.

If, however, the assessment has been revised with reference to the general consideration mentioned at the close of Section 106 of the Code and sanctioned by Government, the publication of the settlement, even if fixed for one or two years only, would be necessary. The Code does not recognize anything of the nature of a temporary or *interim* settlement. (G. R. No. 3299, dated 19th May 1882.)

G. 3. **It must be fixed for a term of years.**—Section 102 says that "it shall be lawful for the Governor-in-Council to declare such assessments (*i.e.*, the assessments fixed by the Survey Superintendent) with any modification which he may deem necessary fixed for a term of years not exceeding thirty." The words "it shall be lawful" are according to well-established rules of interpre-

No. 46

Section 102—

Substitute the following *for* " G. 2 " :—

" When the assessments fixed by the Survey Department have been sanctioned by Government a notification determining the period for which they are guaranteed is generally published in the *Government Gazette* in the form in appendix XIV. The publication of such a notification is not however an essential step towards the introduction of a settlement under section 103.

(G.R. No. 557-B, dated 9-5-1932.)

tation imperative, not optional. If new rates fixed by a Survey Superintendent are sanctioned with or without modification by Government, the Code (Section 102) requires Government at the same time to decree a "Survey settlement," *i.e.*, to declare that the rates sanctioned shall not be liable to increase for a term of years.

The law will not be complied with therefore if Government declare the sanctioned assessment fixed for one year only. Section 104 of the Code, which contains distinct special provisions (1) for the year in which a survey Settlement is introduced, and (2) for the next following years, indicates clearly that the Legislature did not contemplate settlements for one or even two years only; for the provisions in question are such as are just and requisite at the initiation of a term of settlement. But setting aside Section 104, it is a misuse of language to call a settlement for a year a settlement for a term of years. Moreover, if it would be legal for Government to sanction a term of one year once, it would be equally legal for them to do so successively year by year for an indefinite period, which would obviously be an evasion of the intention of the Legislature. The proposal to sanction survey settlement for one year only was not adopted. (G. R. No. 784, dated 3rd February 1892.)

G. 4. **Provisional settlement not allowed:**—Declaring the survey rates provisional is not warranted by the provisions of the Land Revenue Code. (G. R. No. 3120, dated 26th April 1895).

G. 5. **Announcement when rates remain unaltered.**—For every village, in which it is decided at revision of settlement to continue unaltered the assessment previously subsisting, it will be sufficient if an announcement is made by the Collector, Assistant Collector, or Deputy Collector in charge of the taluka to the occupants and holders especially assembled for that purpose that the assess-

ment of each survey number of the village has been fixed at the same amount as had been previously levied. The time of jamabandi will generally be the most convenient for making such announcements. In all other cases an announcement of the new assessment must be made number by number. (G. R. No. 6593, dated 19th October 1900.)

G. 6. **Building sites excluded.**—Lands which are really building sites should be excluded from the operation of the officer engaged in revision settlement of agricultural lands and left to be dealt with separately. (G. R. No. 4763, dated 17th July 1903.)

G. 7. **Meaning of the word "fix":**—The word "fix" is used in a double sense in Sections 100 and 102.

The declaration does not really in itself "fix" the assessments but grants a particular period to the fixity, which are otherwise provisional and can be modified by Government under the second sentence of section 102 or revised under Section 106. The use of the word "if any" in Section 48 shows that an assessment may be fixed, although it has been declared under Section 102 for a term of years. (G. R. No. 4437, dated 10th June 1904.)

G. 8. **Rice rates at** second revision settlement—Govt. in paragraphs 6 and 7 of their Resolution No. 6975 dated 14th July 1916 R. D. passed the following orders :—

6. Of the two questions relating to the rice rates, which have been discussed at length in these papers, the first is as to the method to be adopted with regard to imposing an enhancement on old rice and on what was new rice at the first revision settlement. It is agreed that they should have the same relative increase ; but while the assistant settlement officer proposes that the assessments should be increased 25 per cent. all round, the Commissioner considers that the increase should be in proportion

to the increase in the maximum rate for jirayat in the villages. His argument is that the considerations justifying an alteration in the assessment must necessarily be the same for both. Ordinarily this is so, where there is no change for grouping. If however as in the present case, there is such change, the number of separate rice rates may be less than the numbers of dry crop rates and the relative distance between the lowest and highest rice rates may be less than in the case of the dry crop maxima. Thus, in the case of Shivra and Umbra in the new group I, it would be unfair to raise the rice rates by 66 % if, as the Assistant Settlement Officer's report indicates, rice land is already assessed at rates which are on a level with the rice assessments of the other villages in the group. The Assistant Settlement Officer's proposals are therefore accepted on this point.

7. The second question refers to the treatment of what the Assistant Settlement Officer designates as newer rice i.e. dry crop land which has been converted into rice land in the course of the current settlement. The Commissioner calls in question the propriety of the orders passed in Government Resolution No. 3805 dated 6th April 1916 and states that they appear to overrule the views held by all settlement officers and to order a fresh method of treating new rice. In these orders Government stated that they were not prepared to modify the orders passed in Government Resolution No. 887 dated 3rd February 1899 on the recommendation of the Survey Commissioner in connection with the first revision settlement of the Chikhali taluka in Surat district. The object of the orders was not to impose a tax on the improvements but, pending the execution of the improvements, to reserve the right to tax the natural advantages of the land which rendered improvement possible. The principle underlying Government Resolution No. 887 dated 3rd February 1899 was by no

means new, for at first Revision settlements new rice was specially dealt with in order that the natural facilities for the conversion of the land into rice land should be taxed. As Mr. Bell has shown, this was done in various ways; but in order to avoid taxing the portion of the improvement due to the expenditure of the occupants' capital and labour, the taxation was always based on the dry-crop rate. The present question is whether it is necessary to continue on similar lines in connection with the talukas in the Deccan now under revision. It is clear that in order to avoid injustice, extensive measurements and enquiry would be necessary. It is also probable that the lands which were easiest to convert were taken up first, and that for newer rice the cost of conversion has been heavier. Government therefore consider it advisable to follow the orders in the Nasik settlements sanctioned in Government Resolufion No. 2059 dated 22nd February 1916 and to leave newer rice to come under the ordinary dry-crop rates. (G. R. No. 6975, dated 14th July 1916.)

G. 9. **Instructions** in connection with the transmission of petitions of objections relating to settlement reports—

It is not necessary for Collectors to submit petitions of objections together with his forwarding remarks on settlement reports (*vide* G. R. No. 7447 of 21st October 1886). The Collectors may send their remarks and then later on forward petitions of objections with remarks on them. It is a rare thing for such petitions to disclose reasons which induce any change of opinion. If in fact any such change occurs, there is nothing to prevent further consideration.

All officers should remember that delay in the issue of final orders on settlement reports may cause serious loss, and that it is not desirable or fair to deprive those that come after them, and Go-

No. 47

Section 102—

Delete paragraph 2 of G. 11, at pages 345–346 of the Code and addendum No. 99 of Supplement No. II and *insert* the following :—

"In Government Resolutions No. 8686/,24 dated 31st October 1927 and 17th February 1928 Government directed that the Settlement Officer when submitting his report to the Settlement Commissioner should prepare a precis of more important parts, that the Settlement Commissioner should approve and arrange for its translation into the vernacular and that copies of it and of the appendices should be published in the villages. They also directed that printed copies of the precis and of the appendices should be made available for distribution to the public on payment."

vernment themselves, of the chance of considering proposals of such importance with due deliberation. (G. R. R. D. No. 7152 dated 19th July 1916.)

G. 10. **Land revenue.**—The Royal Commission on Decentralisation, in paragraph 252 of their report, recommended that the general principles of assessment, such for instance as the proportion of the net profits on the land which Government shall be entitled to take, and the period of settlements, should be embodied in Provincial legislation, instead of being left to executive orders, as is the case outside Bombay.

The Government of India wrote to His Majesty's Secretary of State that it was not expedient to take action on the proposal.

This opinion of the Government of India was accepted by the Secretary of State.

The whole correspondence in this matter has been republished at pages 550-554 of the Supplement to the Bombay Government Gazette dated 13th July 1916 and with G. R. No. 7504 dated 31st July 1916. (R. D.)

G. 11. **Settlement reports.**:—In Government Resolution No. 7447 dated 21st. October 1886, Government directed that in the case of revision settlements the Settlement Officer should, as soon as he had worked out his revision of groups and rates, forward to the Collector a notification in the vernacular of the district giving the names of the villages coming under revision according to the groups or assessment circles in which it was proposed to arrange them, and showing against each village the existing and proposed maximum rates, that the Collector should cause this notification to be published without delay by arranging to have one copy posted up in the chavdi or other conspicuous place in each village affected by the settlement, and that in the notification it should be stated that for a period of two months from the date

of its publication the Collector would be prepared to receive objections, made by the village community and presented in writing by the revenue patil as their representative, to the proposed grouping of the villages and maximum rates. In Government Resolution No. 517 dated 21st. January 1897 Government directed that a similar course should be adopted in Sind.

After careful consideration of the proposals contained in these papers, the Governor in Council is of opinion that the orders passed in Government Resolution No. 7447 dated 21st. October 1886 should be amplified, and is therefore pleased to direct that, in the notification for local publication in the villages, the Settlement Officer should also publish a brief summary of the reasons for the proposed alterations in the rates and grouping and further, to approve of the suggestion made by the Sind Settlement Committee that a copy of the Settlement Officer's report should be deposited in the taluka office in order that persons interested therein may consider the detailed proposals.

The two amended forms of notification appended to this Resolution are sanctioned in supersession of the forms approved in Government orders No. 12161 dated 7th. Dec. 1914 and No. 8551 dated 11th. Aug. 1915. (G. R. No. 8914, R. D. dated 14th. Sept. 1916).